



U.S. Department  
of Transportation  
**Research and  
Special Programs  
Administration**

400 Seventh St., S.W.  
Washington, D.C. 20590

DEC 17 2002

Mr. Darrell Garton  
CTC Certified Training Co.  
62537 North Star Dr.  
Montrose, CO 81401

Ref. No. 02-0214

Dear Mr. Garton:

This is in response to your August 13, 2002 letter concerning training requirements under the Hazardous Materials Requirements (HMR; 49 CFR Parts 171-180). Specifically, you ask if an Independent Inspection Agency (IIA) can remain "independent" after it has performed one of the training requirements that are the responsibility of its client and objectively continue being an IIA to that entity.

Section 172.702(a) specifies that the hazmat employer, as defined in § 171.8, is required to ensure that each of its hazmat employees are trained in accordance with the requirements prescribed in subpart H of part 172. There are no requirements in this subpart for persons that provide training or specifics on training programs. Thus, an IIA could also be a trainer.

The IIA conflict-of-interest prohibition in § 107.803(b) only applies to control by, or a financial involvement with, a cylinder manufacturer- not cylinder requalifiers.

I hope this satisfies your request.

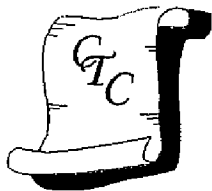
Sincerely,

Delmer F. Billings  
Chief, Standards Development  
Office of Hazardous Materials Standards



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172.702



**CTC Certified Training Co.**

62537 North Star Dr  
Montrose, CO USA 81401  
Tel. (970)240-3391 Fax (970)240-8146  
email: darrell@ctcseminars.com

Johnsen  
§ 172.704  
Training  
02-0214

August 13, 2002

Don Hilts  
Office of Hazardous Materials  
Exemptions & Approvals DHM-32  
400 7<sup>th</sup> St. SW  
Washington, DC 20590

Dear Don,

I am writing this letter to request an interpretation on the allowable functions of the Independent Inspection Agencies (IIA's), as they pertain to cylinder retest facilities.

My specific question pertains to the General Awareness and Function Specific training requirements of 49 CFR 172.704. Currently there are a number of IIA's who are representing that the training requirement is satisfied during their inspection of the retest facility. There are also some who are performing training seminars for the purpose of satisfying this requirement.

My question is not whether an IIA is capable of providing the necessary training, but rather, whether an IIA can truly remain "independent" after they have performed one of the required functions that are the responsibility of their client. As soon as an IIA says, "*Of course your training is adequate... I trained you!*", they have lost their "independent" status; are no longer a "third party"; and have established a rather substantial conflict of interest. This would be no different than if the IIA personnel at a cylinder manufacturing facility stepped into the production line to offer assistance, and then turned around and inspected the very pieces that they had worked on.

I fully recognize that it has been standard practice over the years for the IIA to help out in areas in which the retester may be lacking knowledge or understanding, and I would not want to diminish their role in that capacity. However, when it comes to formal training, it seems to me that this is one of the requirements that the IIA is there to verify has been fulfilled by the retester, not something that the IIA is to provide.

Thank you for your time and consideration in this matter.

Best regards,

*Daniel K. Jett*

cc: Hattie Mitchell